



WP (MD) No. 6475 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 02.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE **B. PUGALENDHI**

W.P. (MD) No. 6475 of 2020

and

W.M.P. (MD) Nos. 5798 of 2020 & 7483, 10557 of 2021

Shanthinikethan Higher Secondary School,
Rep. by its Correspondent,
Dr. Nirmala Jeyaraj

: Petitioner

Vs.

1. The Chief Educational Officer,
O/o. Chief Educational Officer,
Palani Road,
Dindigul District.

2. The District Educational Officer,
O/o. District Educational Officer,
Behind Valluvar Theater,
Palani, Dindigul District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari to call for the records relating to the impugned order of transfer in Na.Ka.No.1816/E1/2019, dated 23.03.2020 on the file of the 2nd respondent served on 30.04.2020 and quash the same as illegal.



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For Petitioner : Mr.T.Ashwin Rajasimman
For Respondents : Mr.P.T.Thiraviam,
Government Advocate

ORDER

The Petitioner / Correspondent of Shanthinikethan Higher Secondary School filed this writ petition as against the order of transfer dated 23.03.2020, passed by the second respondent, in and by which, two BT Assistant Teachers were transferred from the petitioner's school stating that they are surplus.

2.Learned Counsel for the petitioner submitted that one Mr.V.Pushpa Thres, who was working as BT Assistant (Maths), was promoted as PG Assistant and therefore, the post of BT Assistant (Maths) is surrendered back to the Government. Now, the School is having eight sanctioned posts and nine Teachers are working. Out of the nine Teachers who are working, one Mr.Sundararaj, BT Assistant (History) has reached the age of superannuation on 30.04.2020 itself. Therefore, there is no necessity for passing the impugned



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order transferring Mrs.Jebarani, Secondary Grade Teacher, from the petitioner's School.

3.He further submitted that as per Serial No.1(b) (2) of the Schedule of the Right of Children to Free and Compulsory Education Act, 2009, the Government is expected to maintain one Teacher for every 35 Students from sixth to eighth standards. That apart, as per the Circular issued by the Director of School Education Department, dated 16.04.2018, the Student Teacher ratio has to be arrived separately for English and Tamil medium. Without assessing the strength of the English medium, the second respondent has passed the impugned order holding that two posts are surplus and therefore, he prayed for interference.

4.Learned Government Advocate submitted that the petitioner is not having any locus to challenge the impugned transfer order, which was passed on administrative reasons. The Student Teacher ratio has been arrived by the second respondent, after conducting an inspection and based on the ratio only, the second respondent found that two teaching posts are in excess and accordingly, passed the



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impugned order deploying the excess posts to nearby needy schools, as per G.O.Ms.No.525, School Education Department, dated 29.12.1977.

5.He further submitted that the petitioner is conducting English medium classes in sixth standard, without getting any approval from the Department. The same is in violation of Rule 6 of Tamil Nadu Private Schools Regulation Act, 1978 and as such, the School is not entitled to receive any grant in aid for the English medium as per Section 14A of the Tamil Nadu Private School Regulation Act, 1978.

6.He further submitted that out of the two teachers found to be in excess, one Mr.M.Sundararaj, retired from service on 30.04.2020 and the other Teacher, namely, Mrs.Jebarani, who was found to be in excess, is still continuing in the same school in view of the interim order passed by this Court.

7.This Court paid it's anxious consideration to the rival submissions and also perused the available records.



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8. This Court, while entertaining the writ petition, has granted an order of interim stay, since the order of transfer was passed before the completion of the academic year. Pursuant to the same, Mrs. Jebarani, who was found to be in excess, is permitted to continue in the same School.

9. The Student Teacher ratio is decided by the Government as per the relevant Government Orders and such ratio is expected to be arrived upon in the first week of August of every year and the orders of deployment have to be passed on or before September of every year. However, the Department is passing the orders of transfer either in the month of December or January, enabling the Teachers / School Administration to approach this Court with a plea that the transfer order was passed in the middle of the academic year and the Courts, considering the welfare of the Students, are also granting interim orders. The Government is spending huge money on account of the surplus teachers alone and it is high time, that the Department must be vigilant enough to pass necessary timely orders at the earliest.



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10.Coming to the merits of the case, the writ petition is filed by the petitioner / Correspondent challenging the order of transfer. The Department has assessed the Student Teacher ratio and passed the impugned order deploying the excess Teachers to the nearby needy school, in accordance with G.O.Ms.No.525, School Education Department, dated 29.12.1977. It is the case of the petitioner that they are conducting English medium courses and without assessing the ratio independently, the Department has passed the impugned order. But, it is admitted by both party that the petitioner school has not obtained any permission for conducting the English medium courses and they are not entitled for any aid for the courses, which they are conducting in English medium.

11.As per Section 26 of the Tamil Nadu Private School Regulation Act, 1973, where any retrenchment of any Teacher employed in any private school is rendered necessary, as per the norms fixed by the Government, such Teacher shall be appointed in any other needy School. Here, the Department has assessed the ratio of the petitioner's



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School and thereafter, took a call for transferring the surplus posts for effective administration. Courts are not expected to interfere with such administrative transfers in a routine manner, unless or otherwise if it is tainted with an allegation of *mala fide* or issued without jurisdiction.

12.In view of the above position, this Court is not inclined to entertain this writ petition and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
gk

02.12.2022

To

- 1.The Chief Educational Officer,
Palani Road,
Dindigul District.
- 2.The District Educational Officer,
Palani,
Dindigul District.



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B. PUGALENDHI, J.

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